

1 **TITLE 5. EDUCATION**

2 **Division 1. State Department of Education**

3 **Chapter 9. Instructional Materials**

4 **Subchapter 1. Elementary Instructional Materials**

5 **Article 2.1. Adoption of Curriculum Frameworks and Instructional Materials – Procedures**

6
7 *Amend Sections 9515 and 9517 to read:*

8 **§9515. Definitions.**

9 (a) “Board” means the State Board of Education.

10 (b) “Curriculum Commission” means the Curriculum Development and Supplemental
11 Materials Commission.

12 (c) “Department” means the California Department of Education.

13 (d) “Schedule of Significant Events” means the dates promulgated by the Department in the
14 “Invitation to Submit Basic Instructional Materials for Adoption in California.”

15 (e) “Period of Adoption” means the period of time that the instructional materials shall
16 remain in adoption. This time period shall be specified in the “Schedule of Significant Events.”

17 (f) “Primary Adoption” means the first instructional materials adoption following the
18 approval of new evaluation criteria by the Board.

19 NOTE: Authority cited: Sections 33031 and ~~60004~~60206, Education Code. Reference: ~~Sections~~
20 ~~33539, 60019, 60020 and 60200~~Chapter 2 of Part 33 (commencing with Section 60200),
21 Education Code.

22
23 **§9517. Invitation to Submit Basic Instructional Materials for Adoption.**

24 The Board shall ensure that a written notice of an upcoming primary and follow-up adoption
25 of instructional materials is posted on the Department Website and mailed to every person or
26 firm who has submitted a request for notice to the Department and to any person or firm whom
27 the Department, in its judgment, deems to be interested in the notice. This notice shall be known
28 as the Invitation to Submit Basic Instructional Materials for Adoption in California. The failure
29 to mail an invitation to any person as provided in this section shall not invalidate any action
30 taken by the Board, Curriculum Commission, or Department.

1 With respect to the submission of instructional materials for adoption by the Board,
2 publishers and manufacturers shall comply with the following requirements:

3 (a) Instructional materials may be submitted in any language, but essential teachers' materials
4 shall be included in English.

5 (b) Publishers and manufacturers shall indicate, either in the teacher's edition or in the
6 student's edition or both, which literary works contained in the student's edition or teacher's
7 edition have been abridged, adapted, or excerpted. Publishers and manufacturers shall provide
8 detailed descriptions of these changes upon request by the Department or local educational
9 agencies.

10 (c) Publishers and manufacturers shall list, either in the teacher's edition or in the student's
11 edition or both, only authors, reviewers, consultants, advisors, field-test teachers, and others who
12 actually contributed to the development of the materials and shall indicate, for those who are
13 listed, in what capacity they served. Publishers and manufacturers shall provide additional
14 related information upon request by the Department or local educational agencies.

15 (d) Education Code sections 32060-32066 prohibit the purchase of toxic art or craft supplies
16 for grades kindergarten through six and allow their purchase for grades seven through twelve
17 only if they display a warning label. Publishers and manufacturers shall ensure that all art or craft
18 materials included or suggested in their instructional materials comply with the requirements of
19 these Education Code sections.

20 (e) On or before 5:00 P.M. of the date specified in the Schedule of Significant Events, which
21 is included in the Invitation to Submit Basic Instructional Materials for Adoption, publishers and
22 manufacturers shall provide to the Department a list of all instructional materials that will be
23 submitted for adoption. Receipt of submission information after this deadline shall result in
24 disqualification of the instructional materials from further consideration in the current adoption
25 unless publishers or manufacturers can show extenuating and compelling circumstances beyond
26 their control.

27 (f) On or before 5:00 P.M. of the date specified in the Schedule of Significant Events,
28 publishers and manufacturers shall deliver samples of instructional materials to the evaluators
29 and locations specified by the Department. Failure to meet the deadline for delivery of samples
30 shall result in disqualification of the instructional materials from further consideration in the
31 current adoption unless the publisher or manufacturer can show extenuating and compelling

1 circumstances involving natural disasters or independent carriers beyond the control of the
2 publishers and manufacturers. In addition:

3 (1) Publishers and manufacturers shall deliver all samples in final form (i.e., a form that will
4 be offered for purchase over the period of adoption) unless written permission to submit a
5 sample in other than final form is obtained from the Department before any samples are shipped.

6 (2) Publishers and manufacturers shall deliver all samples free of shipping, handling,
7 sampling, or other charges.

8 (3) After the final date for delivery of samples, changes or modifications to instructional
9 materials during the adoption review period by the publisher or manufacturer shall result in
10 disqualification of the materials from the adoption unless those changes or modifications are
11 made pursuant to the Board's social content review or educational content review.

12 (4) Publishers and manufacturers shall retrieve samples of nonadopted instructional materials
13 from display centers during the first thirty (30) days following the date of Board adoption. The
14 deadline for retrieval shall be specified in the Schedule of Significant Events in the invitation.
15 All materials shall be retrieved without any cost to the display center or its staff. Display center
16 directors may dispose of or donate for educational use any samples of instructional materials not
17 retrieved within the 30-day period. Board and Curriculum Commission members, instructional
18 materials reviewers, and Department staff may offer their samples back to publishers and
19 manufacturers, retain their samples, or donate them, provided that the materials are used to
20 benefit public education in California.

21 (g) On or before 5:00 P.M. of the date specified in the Schedule of Significant Events,
22 publishers and manufacturers shall submit to the Department price quotations (bids) for the sale
23 of completed materials, including all transportation costs.

24 (h) Publishers and manufacturers are discouraged from withdrawing from a state adoption
25 after the submission of their materials. No publisher or manufacturer may withdraw their
26 submitted instructional materials from a state adoption within seven working days prior to the
27 beginning of the Instructional ~~Resources Evaluation~~ Materials Advisory Panel educational
28 content deliberations, which date(s) shall be specified in the Schedule of Significant Events.
29 Publishers and manufacturers withdrawing prior to this date shall be so noted in the Curriculum
30 Commission's report of adoption recommendations.

(i) Other than during the times specified in the Schedule of Significant Events, publishers and manufacturers shall not contact Instructional ~~Resources Evaluation~~ Materials Advisory Panel members during their tenure to discuss anything related to the state evaluation or state adoption of materials. Contact initiated by publishers or manufacturers regarding the evaluation or adoption of materials may lead to disqualification of the publisher's or manufacturer's materials from further consideration in the current adoption, legal action, or both. Instructional ~~Resources Evaluation~~ Materials Advisory Panel members shall not discuss materials under adoption consideration with publishers or manufacturers or their spokespeople or representatives.

(j) Publishers and manufacturers shall not publicize in printed marketing materials any part of the Instructional ~~Resources Evaluation~~ Materials Advisory Panel Report.

(k) Follow-up adoptions shall be based on the Invitation to Submit Basic Instructional Materials and evaluation criteria issued for the primary adoption. A new Schedule of Significant Events shall be approved prior to implementing a follow-up adoption.

NOTE: Authority cited: Sections 33031 and ~~60004~~60206, Education Code. Reference: Sections 32060-32066, ~~60071 and 60200-60222~~ and Chapter 2 of Part 33 (commencing with Section 60200), Education Code.

Add Section 9517.1 to read:

§9517.1 Follow-up adoptions: notice to publishers and manufacturers, intent to submit, fee, list of adopted materials.

Follow-up adoptions shall be conducted according to the following requirements:

(a) The Board shall ensure that a written notice of an upcoming follow-up adoption in a given subject is posted on the Department Website and mailed to all publishers or manufacturers known to produce instructional materials in that subject. The notice shall include:

(1) A "Schedule of Significant Events."

(2) Specifications for "Intent to Submit."

(b) Each publisher or manufacturer shall provide an "Intent to Submit" that specifies the following:

(1) Number of programs that the publisher or manufacturer will submit.

(2) Number of grade levels covered by each program.

1 (c) Based on the specifications in subdivision (b) as reported in the “Intent to Submit,” the
2 Department shall assess a fee of \$5,000 per grade level submitted for review.

3 (d) A “small publisher” or “small manufacturer,” as defined in Education Code Section
4 60227(f)(3), may request a reduction of the fee by submitting documentation that includes, but is
5 not limited to, the following:

6 (1) A statement of earnings for the most recent three fiscal years.

7 (2) Number of full-time employees excluding contracted employees.

8 (3) A statement verifying that the small publisher or small manufacturer is not dominant in
9 its field for the subject matter being submitted for follow-up adoption.

10 (e) Instructional materials approved by the Board in a follow-up adoption shall be added to
11 the existing adoption list for that subject and remain on the list until the established expiration
12 date for that list.

13 NOTE: Authority cited: Section 33031 and 60206, Education Code. Reference: Chapter 2 of Part
14 33 (commencing with Section 60200), Education Code.